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January 17, 2005

Application No. : 2,425,189  
Owner : PROMEGA CORPORATION  
Title : **RADIO FREQUENCY IDENTIFICATION METHOD AND  
SYSTEM OF DISTRIBUTING PRODUCTS**  
Classification : G06F-17/60  
Your File No. : ~~67363-1306~~  
Examiner : Jennifer L. Guerra

*YOU ARE HEREBY NOTIFIED OF A REQUISITION BY THE EXAMINER IN ACCORDANCE  
WITH SUBSECTION 30(2) OF THE PATENT RULES. IN ORDER TO AVOID ABANDONMENT  
UNDER PARAGRAPH 73(1)(A) OF THE PATENT ACT, A WRITTEN REPLY MUST BE  
RECEIVED WITHIN 6 MONTHS AFTER THE ABOVE DATE.*

This application has been examined taking into account the:

Description, pages 1, 3 to 7, and 9 to 14, as originally filed;  
pages 2, 2a, and 2b, as received on December 8, 2004, during the  
national phase;  
pages 8 and 8a, as received on June 18, 2003 during the national phase;  
Claims, 1 to 47, as received on March 26, 2004 during the national phase;  
48 to 52, as received on December 8, 2004, during the national phase;  
Drawings, pages 1 to 5, as originally filed.

This application has been examined taking into account applicant's correspondence on prior art  
received in this office on July 30, 2003, March 26, 2004, and December 8, 2004.

The number of claims in this application is 52.

The following documents were identified by word searching in the Techsource and Delphion  
data bases. The search of the prior art has revealed the following:

**References applied**PCT Application

00/45324 □	Aug. 3, 2000	G06K	BESNARD
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United States Patents

5,764,992 □	Jun. 9, 1998	G06F 9/45	KULLICK et al.
6,131,399 □	Oct. 17, 2000	G07F 11/00	HALL

□ citation stemming from a foreign search report

BESNARD discloses production and operations management through the use of RFID tags. The tags are used for inventory, or for the identification and tracking of articles or people. Data stored in tags associated with products include the durability of the product, and the required temperatures for the products (columns 3, 4, and 7).

KULLICK et al. disclose a software program which automatically replaces itself with a newer version. Once the software has determined that a newer version exists, it copies the newer version, programs the newer version, and removes the older version. The new version may be obtained from a network server (column 2).

HALL discloses a vending machine for food or perishable items in which a sensor detects conditions such as temperature, and access is prevented to the vended products when certain conditions are detected. A temperature history is also maintained for the products, and expiration dates are monitored (columns 1, 2, 4, and 5).

**Obviousness**

HALL teaches an apparatus which detects the removal from storage of an object, determines the temperature within the storage, and prevents a user from accessing the storage in accordance with the determined temperature.

HALL does not teach the use of RFID tags, however, BESNARD teaches the use of RFID tags for inventory, or for the identification and tracking of articles or people. BESNARD also teaches tracking the "date of process" and the "duration of process" (page 7, lines 10 to 13), thus BESNARD teaches determining how much time an object that is associated with an RFID tag has spent in a certain area or process. It would have been obvious for a person skilled in the

art to consider utilizing the RFID tags for inventory or identification of articles as taught by BESNARD to the system of HALL which stores articles in inventory.

KULLICK et al. teach downloading software from a server to an apparatus via a network connection, when the software determines that a newer version of software is available. It would have been obvious to a person skilled in the art to consider applying the method for automatic downloading of software, as taught by KULLICK et al. to any apparatus or system running software.

Claims 4 to 35 do not comply with section 28.3 of the *Patent Act* as the subject matter of the claims would have been obvious having regard to the vending machine of HALL, in view of the RFID tags of BESNARD.

Claims 36 to 47 do not comply with section 28.3 of the *Patent Act* as the subject matter of the claims would have been obvious having regard to the system for automatically updating software when a newer version is available, as disclosed by KULLICK et al., in view of the RFID apparatus of BESNARD.

### **Indefiniteness**

It is not clear from the methods of claims 1, 22, and 48 as to who or what is performing the various method steps, and if any computing equipment is even involved. It is also not clear from claim 47 as to whether the step of downloading is performed by a person, or as to whether it is automated.

The following terms have no antecedents:

“the most recent software version number” (claim 3, line 20)

“the most recent software version” (claim 3, line 21)

“the area” (claim 5, line 4)

It is not clear from claims 4 and 32 as to how the detecting device connects to, or cooperates with the other elements of the apparatus.

Claims 2, 5 to 16, 23 to 28, and 49 to 52 are dependent upon one of the above claims, and fail to overcome the objections made for that claim.

For the above reasons, claims 1 to 16, 22 to 28, 32, and 47 to 52 are indefinite and do not comply with subsection 27(4) of the *Patent Act*.

### **Description**

A statement in an application, such as found on page 8, line 28 which incorporates by reference any other document, does not comply with subsection 81(1) of the *Patent Rules*.

In accordance with subsection 81(2) of the *Patent Rules*, all documents referred to in the description of an application must be available to the public. Reference to the documents on page 8, lines 26 to 27 must be deleted or replaced by their corresponding patent numbers or publication numbers.

### **Drawings**

The reference character 162 corresponding to step 162, mentioned on page 13 of the description, does not appear in figure 4b. The figures and the description do not comply with section 82 of the *Patent Rules*, which states that reference characters not mentioned in the description must not appear in the drawings, and vice versa.

### **Editorial**

Th opportunity should be taken to amend clerical errors in the description such as:

Description - page 8, line 21, "client roller 45" should be changed to "client controller 45"

In view of the foregoing defects, the applicant is required, under subsection 30(2) of the *Patent Rules*, to amend the application in order to comply with the *Patent Act* and the *Patent Rules* or to provide arguments as to why the application does comply.

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